UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,475	04/13/2001	Paul L. Mullen	GEMS8081.070	7317

27061   7590   01/29/2008

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

EXAMINER
LANEAU, RONALD

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
01/29/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@zpspatents.com
rlt@zpspatents.com
klb@zpspatents.com

PTOL-90A (Rev. 04/07)

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/681,475
Filing Date: April 13, 2001
Appellant(s): MULLEN ET AL.

MAILED

JAN 2 5 2008

GROUP 3700

Timothy J. Ziolkowski
Kevin R. Rosin

<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 10/15/07 appealing from the Office action mailed 03/07/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings

which will directly affect or be directly affected by or have a bearing on the Board's decision in

the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

The summary of claimed subject matter contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,182,249	WOOKEY	1-2001
6,317,639	HANSEN	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7-9, 11-14, 16-19 and 21-34 are rejected under 35 U.S.C. 102(b) as being

anticipated by Wookey et al (US 6,182,249 B1).

Wookey discloses a system and method for remotely managing communication of

electronic data between a diagnostic service center and a plurality of machines generally remote

relative to each other (see claim 12) including the steps of: remotely collecting condition data

representative of a device status (col. 12, lines 14-26); storing the condition data on a database a

centralized facility (fig. 1, 109; storing data in a centralized diagnostic database); reviewing the

condition data to identify at least the device diagnostic data and the device reminder data (col. 1,

lines 28-53; this is typical for an operator of the system or a supervisor to review the

diagnostics); and separately displaying and identifying on a graphical user interface (GUI) the

device diagnostic data and the device reminder data (col. 16, lines 41-58; alerting of the schedule

repair). Wookey further discloses that the statistic log may be configured so that the graphical

user interface allows for user-friendly manipulation of data and for example generation of reports

may be implemented in graphical and/or tabular format with electronic editing, copying, cutting

and pasting options (table 1 seen in cols. 4 and 5 allow a user to see the statistics for repair and

the reports can have different formats and one would be able to edit, copy, cut and paste and may

be distributed weekly, monthly, etc based on the log of diagnostic statistics and the report may be

configured to be distributed through the Internet or an intranet via a predetermined Web server).

The system of Wookey is inherently capable of being programmed to acquire the condition data

and the reminder data via a wireless system seen in figure 1 and also allow operators to monitor

downloads in process and/or in queue and identify the type of download as claimed (see fig. 1).

Wookey further discloses the steps of storing data processing of components on components of

an equipment, said data processing system associates at least one predictive maintenance factor

with the corresponding component data, a scheduler schedules maintenance for a maintenance

time period for at least one of the components based on the first database (col. 15, line 66 to col.

16, line 15), the second database, the associated predictive maintenance factor, and an elapsed

time with respect to an installation date of at least one component, said predictive maintenance

factor may be defined by one or more of the following: a longevity estimate, a probability of

failure, a financial estimate on maintenance of a component (col. 15, line 66 to col. 16, line 15).

The system of Wookey can be used in a medical environment and also uses Internet to access

data and monitors the plurality of machines.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2,3, 5, 6, 10, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Wookey et al (US 6,182,249 B1) in view of Hansen (US 6,317,639 B1).

As per claims 2, 5, 6 and 10, the rejection of claim 1 applies. Wookey does not disclose

updating the data but Hansen discloses updating the maintenance file record to reflect the

diagnosis, the schedule for service, etc (col. 5, lines 42-49).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to include the teachings of Hansen into the system of Wookey because it would

provide ways to track diagnostic data of devices to ensure they are in proper working order.

As per claims 15 and 20, none of the references teaches marketing data, customer-entered

data, and messages are consolidated. However, these differences are only found in the

nonfunctional descriptive material and do not alter how the information is consolidated. Thus,

this descriptive material will not distinguish the claimed invention from the prior art in terms of

patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983): In re

Lowry, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed Cir 1994). Therefore, it would have been obvious

to one of ordinary skill in the ad at the time the invention was made to consolidate marketing

data, customer-entered data, and messages because the type of information being consolidated

does not patentably distinguish the claimed invention.

(10) Response to Argument

Applicant's arguments filed on 12/19/06 have been fully considered but they are not

persuasive.

Applicant argues that Wookey does not disclose "separately displaying and identifying"

device diagnostic data and device reminder data for a remote device on a GUI. In response to

Applicant's arguments, Wookey discloses in figure 12 a system visualization screen that

provides graphical representation of a host state that displays and identifies diagnostic data as

claimed (see fig. 12). Applicant further argues about "reminder data" that is based upon some

predetermined information. In response to Applicant's arguments, Wookey discloses an alert

system that indicated predefined conditions existed in a computer system. Since the condition is

preset in the disclosure of Wookey then the alert system of Wookey can be used as a reminder

system as claimed. The same reasoning is also applicable to Applicant's arguments with regard

to claim 9.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related
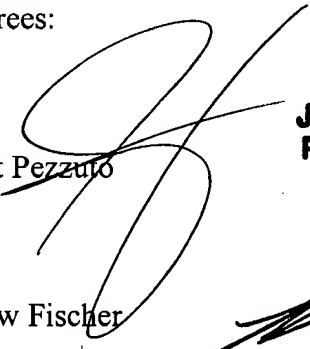
Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ronald Laneau

Conferees:

Robert Pezzuto

Andrew Fischer

JOHN M. HOTALING, II
PRIMARY EXAMINER